IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

Crl.MC.No. 364 of 2007()

ST.120/2007 of CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM
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PETITIONER: ACCUSED

SHAMSUDEEN, S/O. SAINULABDEEN,
LAILA COTTAGE, RUSSELPURAM P.O., ERUTHAVOOR,
BALARAMAPURAM, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 364 OF 2007

Dated this the 21stday of February, 2007

ORDER

The petitioner is the accused in S.T.No.120/07 (originally numbered as S.T.258/96) pending before the Chief Judicial Magistrate's Court, Thiruvananthapuram. He was arrested and produced before the learned Chief Judicial Magistrate in that case on 9/2/07. The learned Chief Judicial Magistrate has now, subject to very strict conditions, directed his release on bail from custody.

2. But the petitioner continues in custody even now. There is no remand order from any court. Why then is he in custody? Report of the learned Chief Judicial Magistrate was called for. The report reveals that the Sub Inspector of Police, who produced the petitioner after his arrest before the learned Chief Judicial Magistrate, had reported that the petitioner was wanted in some other cases also and earlier warrants issued had been returned to such courts on the ground that the petitioner was not available for arrest. In these circumstances, even though the petitioner was directed

to be released on bail in S.T.No.120/07, the learned Chief Judicial Magistrate had directed that the accused must be produced before the five different courts before which the cases against the petitioner are pending. The petitioner by now has been produced before the three such courts. Two of them – Judicial First Class Magistrate's Court, Palakkad and the Judicial First Class Magistrate's Court, Perumbavoor, have already released the petitioner on bail. The third viz., the Additional Chief Judicial Magistrate's Court (Economic Offences), Ernakulam, when he was produced before that court, it was realised that he is not required to be detained in custody in connection with any such case. The petitioner was allegedly required for arrest by two more courts i.e., the Judicial First Class Magistrate's Court-III, Thrissur in S.T.No.5362/05 and the Judicial First Class Magistrate's Court, Mysore in C.C.No.334/05.

3. The short grievance of the petitioner is that the petitioner has not been directed to be kept in custody by these two courts. There is no production warrant issued by such courts. Nay, there is not even a non-bailable warrant issued by such courts in favour of any of the officers. No such warrant is at all produced. In these circumstances, the detention of the

petitioner without due authorisation from any court - either remand order or non-bailable warrant, is unjustified. This, in short, is the plea raised.

4. There is no contention before me that any non-bailable warrant is pending execution before any officer from these two courts. There is also no contention before me that there is any production warrant issued by either of these courts to the Superintendent of Prison. I am, in these circumstances, satisfied that the learned Chief Judicial Magistrate, Trivandrum, can be directed to ensure the release of the petitioner forthwith without waiting for his production before the Judicial First Class Magistrate's Court-III, Thrissur and the Judicial First Class Magistrate's Court, Mysore. The petitioner shall execute a bond before the learned Chief Judicial Magistrate for an amount of Rs.10,000/- with two solvent sureties undertaking to appear before the said courts i.e., the Judicial First Class Magistrate's Court-III, Thrissur, and the Judicial First Class Magistrate's Court, Mysore, within a period of 30 days from the date of release. Compliance shall be reported to the learned C.J.M.

5. This Crl.M.C. is, accordingly, allowed with the above observations. The learned Chief Judicial Magistrate shall ensure

that the petitioner is released from custody forthwith unless he is required to be detained in custody on the strength of any process/order issued by any other court.

6. Hand over a copy of this order to the learned counsel for the petitioner forthwith.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge